

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Multi-Association Group (MAG) Plan for)	CC Docket No. 00-256
Regulation of Interstate Services of)	
Non-Price Cap Incumbent Local Exchange)	
Carriers and Interexchange Carriers)	

FOURTEENTH REPORT AND ORDER, TWENTY-SECOND ORDER ON
RECONSIDERATION, AND FURTHER NOTICE OF PROPOSED RULEMAKING
IN CC DOCKET NO. 96-45, AND REPORT AND ORDER IN CC DOCKET NO. 00-256

Comments of the Montana Telecommunications Association

The Montana Telecommunications Association (MTA) represents independent commercial and cooperative providers of advanced voice, data and video telecommunications services throughout rural Montana. These companies serve over 80% of Montana's geography, and over 31% of its local exchange service consumers. MTA members employ over 800 Montanans, invest over \$70 million annually in our state's infrastructure and offer a variety of vital telecommunications services, including high speed Internet, fiber backbone, videoconference, wireless, and wireline services to communities small and large.

Montana's rural telecommunications providers serve territories that are considered rural by any standard. MTA members *average* fewer than three customers per mile; many exchanges serve well under one customer per mile of line.

MTA members' commitment to providing quality service to rural America is exemplary. The independent local exchange companies of Montana operate over 90 videoconference/distance learning/telemedicine sites in rural Montana, including sites on each of Montana's Tribal Colleges. They have deployed over 5,000 miles of fiber optic cable serving rural Montana. And by year-end, they will have reached 121 towns and rural communities with DSL Internet access.

MTA Opposes a Freeze on High-Cost Loop Support on a Per-Line Basis

MTA commends the Commission for adopting in large part the recommendations of the Rural Task Force (RTF). We also applaud the Commission for its decision not to adopt the RTF proposal to freeze high-cost loop support on a per-line basis in study areas where a competitive eligible telecommunications carrier (CETC) initiates service. MTA is pleased to respond to the Commission's request for comments in this regard.

As the Commission recognizes in discussing the background for this FNPRM,¹ "as an incumbent 'loses' lines to a competitive eligible telecommunications carrier, the incumbent must recover its fixed costs from fewer lines, thus increasing the per-line costs." Thus, a freeze in per line support would leave an incumbent carrier with stranded costs to recover from a smaller customer base.

An incumbent in such a situation would be forced to choose between reducing its network investment or increasing its rates. In Montana, which ranks among the lowest per-capita income states in the Nation, increasing rates is not a viable option. Moreover, since Montana's independent ILECs serve extremely sparsely populated areas, their per-line support is relatively high compared to support associated with other more densely populated areas served by the Nation's larger companies.² Thus the loss of support per-line is disproportionately high in the very areas that least can afford to make up the loss through rate increases or investment reductions. Further, the increase in rates at some point would call into question the Telecommunications Act's "comparable rates for comparable services" doctrine. In short, freezing per-line support would affect most the customers in areas that least could afford the negative rate or investment ramifications of a freeze.

MTA also acknowledges the Commission's analysis that without frozen per-line support, a perverse consequence could result in an "automatic" increase in the CETC's

¹ See paragraphs 207 and 208; FOURTEENTH REPORT AND ORDER, TWENTY-SECOND ORDER ON RECONSIDERATION, AND FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 96-45, AND REPORT AND ORDER IN CC DOCKET NO. 00-256. FCC 01-157.

² . In fact, access and universal service support combined contribute as much as 80 percent of rural LECs' revenues. Thus, even a "small" reduction in universal service (or access) support can have a devastating effect on a rural carrier.

per-line support. The more lines a CETC “captures,” the greater its support. Such a system could create incentives for all sorts of imaginative schemes. However, the gaming of such a system is not reason to impose a per-line support freeze. The problem is not the freeze; it’s the way support can be manipulated by a CETC to gain universal service support without actually providing universal service as contemplated by the Telecommunications Act.

A per-line support freeze is wrong for reasons listed above (negative consequences on investment and/or rates, especially in high-cost areas.) So, too, is it wrong to provide an automatic increase in per-line support for a CETC, simply because the incumbent’s per-line support may increase.

In short, MTA agrees with the Commission’s concern that a freeze “may have the unintended consequence of discouraging efficient investment in rural infrastructure.”

Commissions Need to Guard against USF Support Manipulation

Comments filed by the National Rural Telecom Association and OPASTCO correctly point out that there are significant differences between cost structures and service obligations of ILECs and CLECs. The associations also note that the Telecommunications Act provides that universal service support should be “specific” and “predictable,” but not necessarily identical to the ILEC’s support.

MTA urges the Commission, as well as state Commissions charged with the responsibility of designating CETCs, to safeguard against abuses of the universal service support system by companies whose intent is to maximize universal service support receipts by manipulating customer information, selectively serving certain areas, or engaging in a variety of other forms of support arbitrage.

States Should Consider Universal Service Ramifications of ETC Designations

As the Rural Task Force correctly points out, the differences among rural companies themselves often are greater than the differences between rural carriers as a group and large non-rural carriers. Moreover, the Telecommunications Act

appropriately recognizes that certifying eligible telecommunications carriers is a State responsibility. Further, with regard to making such determinations, the Act differentiates between rural and non-rural carrier ETC designations, by specifically requiring a determination that certification of an additional rural ETC is in the public interest.³

Congress recognized, and the RTF reiterated, that the dynamics of rural economies are different than those of more densely populated communities. MTA is not alone in questioning the wisdom or public interest of using universal service to support the deployment of duplicative services or infrastructure in rural America, when rural markets are insufficient independently to sustain even one incumbent network.⁴

Designating additional rural ETCs as being in the public interest therefore is a decision best made, as Congress contemplated, at the local/state level. State Commissions are best equipped with specific knowledge of the rural economies, and carriers involved.

As noted in the introduction, the rural independent carriers in Montana are providing superior service and infrastructure investment to rural consumers throughout Montana. The same can be said of independent rural carriers throughout our Nation. Most rural economies would be hard pressed to sustain additional ETCs in rural service areas. Therefore, it is reasonable to expect state commissions to consider the costs as well as potential benefits of granting additional eligible carriers in a rural area. Among the costs to be considered is the effect of additional ETCs on the viability of universal service.

Conclusion

MTA opposes any freeze of high-cost support on a per-line basis in rural carrier study areas where a competitive ETC initiates service. Such a freeze, as the

³ 47 U.S.C. 214. Section 214 (e)(2) states, "Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest."

⁴ It is not inconceivable, however, that there are cases where more than one ETC may be justifiable. For example, if an incumbent fails to invest adequately in rural infrastructure or to provide adequate service quality in a rural community, it may be in the public interest to certify an additional ETC that can deliver better service and deploy more advanced infrastructure.

Commission points out, would have the negative effect of discouraging efficient investment in rural infrastructure.

Congress recognized that states are in a position best to determine whether granting additional eligible telecommunications carrier status will serve the public interest in rural areas. In making such determinations, it is reasonable to expect state Commissions to consider quality of service; ability to provide service; infrastructure investment and the effect on the effect on the ability to preserve and promote universal service, among other issues.

Respectfully submitted,

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